

1044b UIC - EAST POPLAR OIL FIELD  
ENFORCEMENT CASE SDWA 1431  
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Region 8



13535

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**FAX TRANSMITTAL**DATE: 10/4 TIME: 8:202 PAGES SENT PLUS THIS COVER SHEETTO: Nathan WrenFAX NO. 303 212 6409FROM: B. GallikSUBJECT: Samsan / Grace

COMMENTS: \_\_\_\_\_

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ATTORNEYS FOR SAMSON RESOURCES COMPANY

UNITED STATES DISTRICT COURT  
 DISTRICT OF MONTANA  
 BILLINGS DIVISION

Cary G. Youpee et al,

Plaintiffs,

vs.

Murphy Oil USA, Inc. a Delaware,  
 corporation; Murphy Exploration  
 & Production Co., a Delaware  
 corporation; Mesa Petroleum Co.;  
 Pioneer Natural Resources Co. a  
 corporation; Pioneer Natural  
 Resources USA, Inc., a Delaware  
 corporation; Samson Resources  
 Company, an Oklahoma corporation;  
 and John Does 4 through 50,

Defendants.

CV-98-108-BLG-JDS

SAMSON RESOURCES COMPANY'S  
 ANSWERS AND OBJECTIONS TO  
 FIRST DISCOVERY REQUESTS

Samson Resources Company ("Samson") for its answers and objections to first discovery requests of Plaintiffs states as follows.

**PRELIMINARY STATEMENTS**

I. As set forth more fully below, defendant Samson Resources Company has never had any interest in any of the subject wells in the subject oil field. Samson Hydrocarbons, an affiliate of Samson, is a successor of Grace Petroleum, an entity which, prior to July 1986, was owner/operator of



which tends to support your answer.

**ANSWER:** Defendant is not familiar with any entity known as "Samson Natural Resources Company." Assuming the Request was intended to be directed to Samson Resources, then Samson Hydrocarbons, not Samson Resources, is a successor to Grace Petroleum. See also Answers to Interrogatory Nos. 25 and 26, incorporated by reference.

**INTERROGATORY NO. 25:** Describe the transactions or series of transactions which resulted in Samson Natural Resources Company assuming assets and liabilities of the Grace Petroleum Company and/or W.R. Grace and Company. A

**ANSWER:** Object to the extent the Interrogatory incorporates a legal conclusion, i.e., that Samson "assumed" assets and liabilities of Grace. Defendant is unaware of any entity known as Samson Natural Resources Company. Further, assuming Plaintiffs intended the request to be directed to Samson Resources Company and treating the Request as so stated, Samson Resources Company did not assume assets and liabilities of the Grace Petroleum Company and/or W.R. Grace and Co. Upon information and belief, Samson Investment Company acquired all issued and outstanding stock of Grace Petroleum Corporation on or about December 30, 1992. Grace Petroleum Corporation changed its name to Samson Natural Gas Company on or about January 21, 1993. Samson Natural Gas Company changed its name to SNG Production Company on or about April 19, 1993. SNG Production Company changed its name to Samson Hydrocarbons Company on or about December 28, 1994. }

**INTERROGATORY NO. 26:** Describe the transactions or series of transactions which resulted in W.R. Grace and Company and/or Grace Petroleum Company assuming assets and liabilities of the

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November 17, 2000

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Date: Nov. 17,  
2000

From: Goetz, Gallik

To: Carol Browner,  
EPA

Content:  
Notice of Intent

Comment: 12 pages

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Page 2

**NOTICE OF INTENT TO FILE CITIZEN SUIT  
UNDER THE SAFE WATER DRINKING ACT, 42 U.S.C. § 300j-8**

Dear Administrators, Alleged Violators and other Named Individuals:

This firm represents 28 individuals who live on or near the East Poplar Oil Field ("Oil Field"), located on the Fort Peck Indian Reservation in Northeastern Montana.<sup>1</sup> As a result of crude oil production in and around the Oil Field, our clients' sole developed source of underground drinking water -- the Quaternary deposits -- is contaminated with saline, including chloride and dissolved-solids. It is also contaminated with benzene, a known human carcinogen.

This contamination, which presents a substantial, present danger to our clients' health, is documented in a United States Geological Survey ("USGS") report entitled Saline Water Contamination in Quaternary Deposits and the Poplar River, East Poplar Oil Field, Northeastern Montana (U.S. Geological Survey Water-Resources Investigations Report 97-4000) and in a United States Environmental Protection Agency (EPA) Administrative Order issued in September, 1999, and later amended by that Agency. See *In The Matter of Amarco Resources Corporation, Marathon Oil Company, Murphy Oil and Production Company, Pioneer Natural Resources USA Inc. and W.R. Grace & Company*, Docket No. SDWA-8-99-68 (November 5, 1999).

The oil companies responsible for this contamination have taken no steps to address this serious problem. Moreover, the appropriate state and local authorities, if any, have not acted to protect the health of our clients. For these reasons, this firm filed suit on March 13, 1998 against various oil companies under several theories of relief, including trespass, nuisance, trespass, strict liability, and a violation of the Montana Constitution. See, *Cary G. Youpee, et al. v. Murphy Exploration & Production Co., et al.*, No. CV-98-108-BLG-JDS, United States District Court, Billings, Division. The named defendants have denied responsibility for their conduct.

While the EPA has filed an administrative action against certain oil companies and potable water, in limited quantities is now being provided to our clients, the EPA has not commenced an action in district court to enforce the Safe Drinking Water Act and therefore a citizen suit is necessary. 42 U.S.C. § 300j-

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<sup>1</sup> A map of the East Poplar Oil Field is attached as Exhibit A. A map of the ground-water contamination within that Field is attached as Exhibit B.

8(b)(1)(B). See also *Washington Public Interest Research Group v. Pendleton Woolen Mills*, 11 F.3d 883 (9<sup>th</sup> Cir. 1993).

The purpose of this letter, therefore, is to advise the above-named individuals, corporations and government agencies of our notice of intent to amend our Complaint, for a seventh time, to enforce the Safe Drinking Water Act, 42 U.S.C. § 300j-8, et. al. This Notice, a prerequisite to amending our Complaint in federal court, is provided to each of you pursuant to federal law. 40 C.F.R. § 135, et. seq.

1. Standards Violated.

The contaminating activities that are the subject of this Notice violate the Safe Drinking Water Act's minimum requirements for underground injection programs promulgated by the Environmental Protection Agency pursuant to 42 U.S.C. § 300h(6). The owners and/or operators in the field have violated (and continue to violate) 40 C.F.R. § 144.12(a) which provides that:

No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into groundwater sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 C.F.R. Part 142 or may otherwise adversely affect the health of persons.

The Quaternary deposits at issue in this case are an underground source of drinking water as defined by 40 C.F.R. § 144.3 and, prior to the contamination complained of, supplied drinking water to our clients and other persons living in and around the field and to the public water system in the City of Poplar, Montana.

The extent of the contamination is huge -- affecting between 9-60 billion gallons of ground water (27,600-184,00 acre feet). Id. at 25. Moreover, the contaminated water in the Quaternary deposits continues to spread in various plumes and has increased the salinity of the Poplar River. Id. See also, Exhibit B (map of Groundwater Contamination in East Poplar Oil Field).

The activities that resulted in this contamination are discussed below.

2. A Description of the Activities Which Constitute a



Violation of the Act.

"The probable source of saline-water contamination of the Quaternary deposits is brine from the production of crude oil in the East Poplar oil field study area." USGS Report, at 1 & 33.<sup>2</sup> Brine (water having a dissolved-solids concentration greater than 35,000 mg/L) is a byproduct of crude-oil production activities. This brine, according to the USGS, "originates from intraformational dissolution of halite in the oil-producing zone which, in the East Poplar Oil Field study area, mainly is the Charles Formation of the Mississippian Madison Group." Id. at 31.

The USGS concluded that the contamination of the Quaternary deposits was the result of oil production activities because of the similarity in water chemistry between the brine and the contaminated water. Specifically, the major constituents in brine are sodium and chloride, a composition that is similar to contaminated ground water in the study area. The strong similarity in water chemistry indicates that brine is a likely source of saline-water contamination in the study area. Report, at 31.

The possible oil-industry sources of this brine are: "brine-injection wells, oil-production wells, brine-evaporation pits, pipelines, storage tanks, and upward brine migration from subsurface zones through well casing or fractures, although no faults or fracture systems are known in the study area." Id. at 31. These sources are located throughout the study area as shown on plate 3 to the Report.

The USGS Report further refined its opinions with respect to the specific source and location of contamination by noting that most brine disposal has been by injection into subsurface geologic units. Id. at 33. It then observed:

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<sup>2</sup> "The production of brine ranged from as much as 17,000 bbl/d, or 6.2 million bbl/yr in 1985 to 5.5 million bbl/yr in 1995." Exhibit B at 2 (citations omitted). In 1996, four brine injection wells were active, although at least 16 other wells were active at times during the oil-field's history. These brine-injection wells, along with "oil wells, pipelines, and storage-tank facilities," according to the USGS, "appear to be probable sources of the saline-water contamination" in the East Poplar Oil Field. Id. at 1. Although there has been a moratorium on further injections since 1985, the USGS concluded that "[t]here may be at least one source of saline-water contamination in the Quaternary deposits still contributing to the aquifer." Id. at 32.

Within the saline-water contamination plumes, the locations of significantly high electromagnetic apparent conductivity values generally are close to the locations of particular brine-injection wells, oil wells, pipelines, and storage-tank facilities. These areas appear to be probable specific source areas of the saline-water contamination.<sup>3</sup>

Id. at 33 (emphasis added).

Additional, smaller amounts of unknown quantities of brine was also directed into storage and evaporation pits. Id. at 33.

The USGS' conclusion that brine from oil production is the probable source of salt-water contamination in the quaternary deposits is also based on the exclusion of other possible sources as the cause of the contamination. For example, the USGS ruled out saline seep as the cause of contamination due to differences between the chemical composition of such seeps and the contaminated groundwater. It was also eliminated as a suspect because "no saline soils and relatively few saline seeps have been mapped in the study area (U.S. Department of Agriculture, 1985; Miller & Bergantino, 1983)." Id. at 31.<sup>4</sup>

The USGS also concluded that water from the Bearpaw shale was not a likely source of the contamination for two reasons: (1) a difference in water chemistry; and (2) the impermeable nature of the Bearpaw shale. Id. at 31.

In sum, our client's ground water is contaminated with brine and benzene -- a known human carcinogen. This brine and benzene are the result of oil production activities -- most likely injection of brine into the ground in violation of law.

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<sup>3</sup> Probable sources of brine contamination were identified by locating and contouring areas within contaminated plumes that exhibited significantly higher electromagnetic geophysical measurements. For this purpose, the USGS considered the electromagnetic apparent conductivity to be significantly high if the value was 20 mmho-m higher than that used to delineate sub area 3, an area that had exhibited high electromagnetic apparent conductivity readings. Applying this methodology, the Report delineated "areas around or down gradient from probable sources of brine contamination." Report, at 31.

<sup>4</sup> This fact has not prevented the named defendants, who have answered the complaint, to claim that saline seep is the reason why our clients' water is contaminated.

3. The Person or Persons Responsible for the Violations.

- a. Murphy Exploration & Production Co.;
- b. Mesa Petroleum Co.;
- c. Pioneer Natural Resources USA, Inc.;
- d. Samson Hydrocarbons Company;
- e. Marathon Oil Company; and
- f. "John Does."

These oil companies have been named as defendants in federal court because of the existence and location of their brine injection facilities, oil wells, pipelines and storage-tank facilities. "These areas," the USGS concludes, "appear to be probable source areas of the saline-water contamination." Id. at 33.

4. Location of the Violation.

East Poplar Oil Field as severally defined by the USGS Report at 2.

5. Date or Dates of the Violation.

The specific date, or dates of violation, is unknown. Discovery is currently underway. It is known that brine injection began in the mid-1950's and smaller, unknown quantities of brine were directed into storage and evaporation pits. In addition, according to BLM records, attempts have been made to reinject brine into oil-producing zones for secondary recovery, but at the time of the Report, no activity was occurring.

The USGS Report also notes that in the late 1970's the presence of saline-water contamination in Quaternary alluvium along the Poplar River was "first noted when landowners reported increased salinity of their domestic well water." Id. at 1. A 1984 study determined that water in the Quaternary alluvium was contaminated by brine from the production of oil. However, this same study indicated that additional study was needed to determine "the areal extent of contamination, rates of movement of brine, geochemical reactions that may occur, and changes in water quality with depth in the alluvium." Id. at 1.

The Report also observes that in the late 1980's other well



owners indicated that water in Quaternary glacial deposits also was becoming more saline. These reports, in turn, led to additional studies of the ground water and culminated in the May, 1997 Report.

6. Name, Address and Telephone Numbers of Persons Giving Notice.

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November 17, 2000  
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7. Identification of counsel.

The foregoing persons, who are giving notice, are represented by Richard Dolan and Brian Gallik of the law firm of Goetz, Gallik, Baldwin & Dolan, P.C., 35 North Grand, P.O. Box 428, Bozeman, MT 59771-0428; (406) 587-0618; goetzlaw@gomontana.com.

We believe that this letter, the USGS Report, EPA Administrative Order and the pending complaint filed in the Federal

November 17, 2000  
Page 9

District Court for the District of Montana, Billings Division, sufficiently place the above-named individuals on notice and state the grounds for an amendment to our complaint. We reserve our rights, however, to include any other violations in the seventh amended complaint. If you have any questions or wish to discuss the matter further, please do not hesitate to contact me.

Sincerely,

GOETZ, GALLIK, BALDWIN & DOLAN, P.C.



Brian K. Gallik

BKG:kb  
Enclosures

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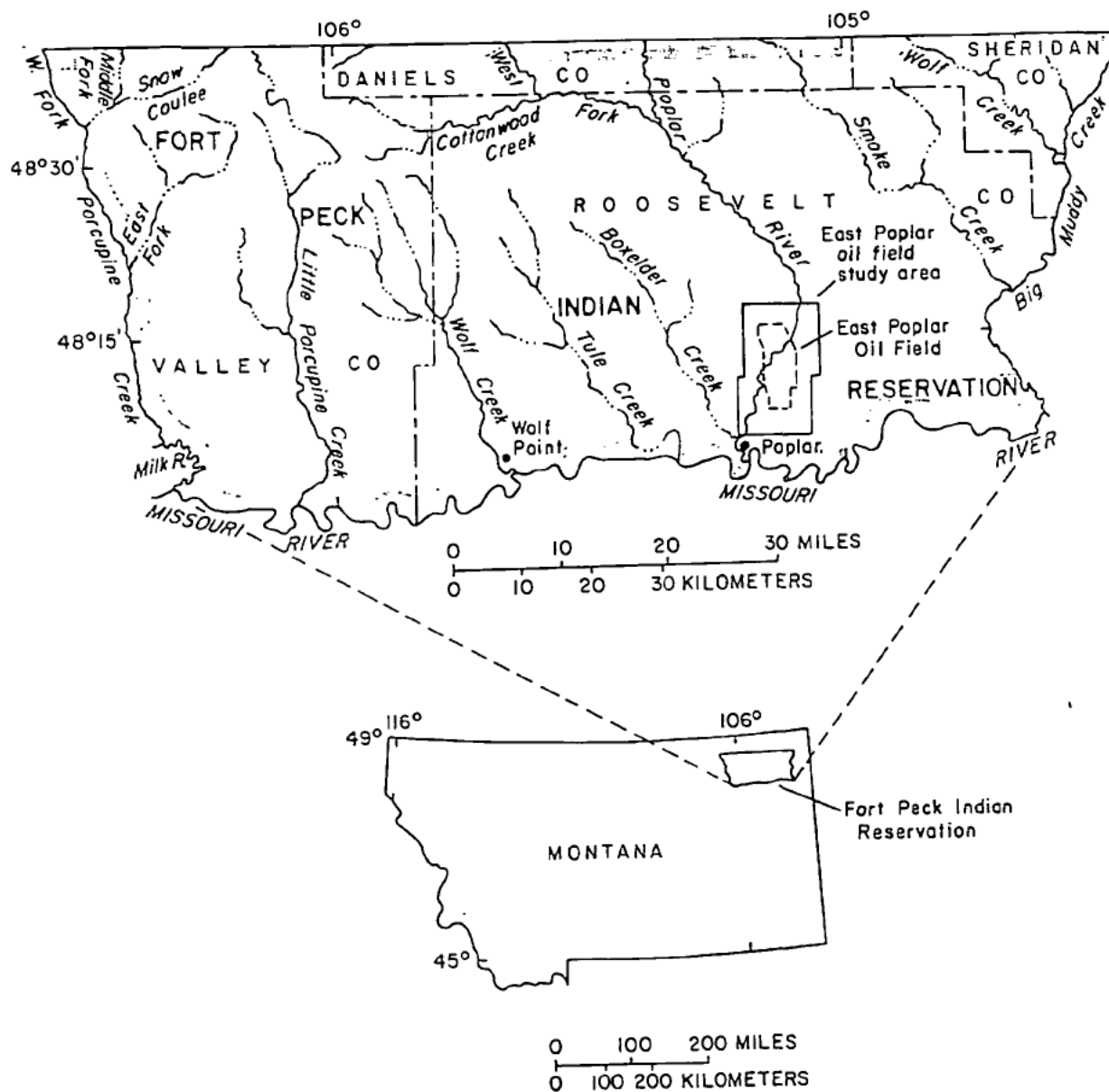
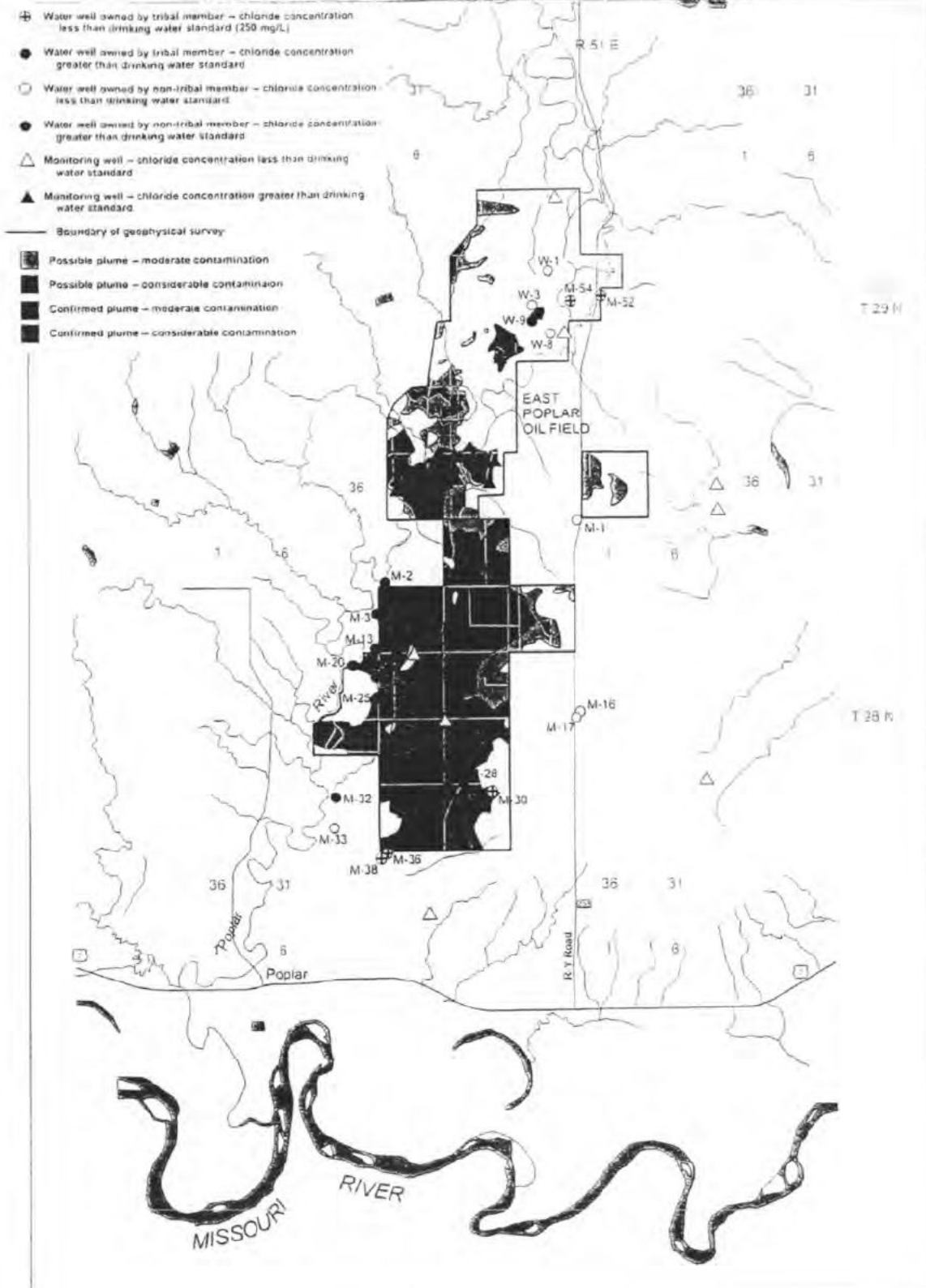


Figure 1. Location of the East Poplar oil field study area, northeastern Montana.

# Ground-water contamination in the East Poplar oil field



Well number	Well owner	Chloride concentration (in mg/L) *	Year sampled	Well number	Well owner	Chloride concentration (in mg/L) *	Year sampled
M-1	Zimmerman, Bill	36	1991	M-30	Trotter, Tim	22	1992
M-2	Abbotts, Marge	420	1990	M-31	Trotter, Tim	32,000	1993
M-3	Kim, Robert	260	1990	M-32	Bleazard, Ross and Laura	330	1993
M-13	Kim, Michael	2,800	1990	M-33	Loegering, Del	73	1990
M-14	Youpee, Josie	430	1991	M-36	Grandchamp, Doug and Denise	40	1990
M-15	Youpee, Marvin and Stephanie	780	1991	M-38	Granger, Triwan	34	1989
M-16	Come, Diane	200	1990	M-52	Kohl, Cheryl and Daniel	88	1991
M-17	Come, Diane	20	1990	M-54	Granger, Iva	110	1990
M-18	Reddoor, Abigail	3,700	1991	W-1	Lien, Bud	13	1991
M-20	Youpee, William	2,300	1990	W-3	Lien, Bud	13	1991
M-22	Youpee, William	3,100	1990	W-8	Lien, Bud	32	
M-24	Fourbear, Charles	1,400	1991	W-9	Lien, Bud	1,100	
M-25	Ricker, George	1,100	1990				
M-27	Reddoor, Irma	1,700	1990				
M-28	Lockman, Curly	7,900	1991				

\* The U.S. Environmental Protection Agency has established that the Maximum Secondary Contaminant Level for chloride is 250 mg/L.



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November 22, 2000

**VIA CERTIFIED MAIL**  
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Helena, MT 59624

Office of Enforcement  
NOV 27 2003  
Compliance & Env. Justice

Re: *Samson Hydrocarbons Company*

Dear Prentice Hall Corporation Systems:

Enclosed is a copy of a letter dated November 17, 2000, which sets forth the **Notice of Intent to file a citizens' suit** under the safe drinking water act, 42 U.S.C. § 300j-8. This letter was inadvertently sent to CT Corporation System, as the registered agent for Samson Hydrocarbons. We learned that CT is not the registered agent for Samson Hydrocarbons Company and therefore, upon further investigation we are sending this notice to you, by certified mail, in accordance with federal law.

Sincerely,

GOETZ, GALLIK, BALDWIN & DOLAN, P.C.



Brian K. Gallik

RKB:mw

C: Samson Hydrocarbons Company  
Carolyn Ostby and Michael Webster  
John Walker Ross  
Robert Sterrup  
Gerald Murphy  
Patrick Pitet  
Nathan Wiser  
Renee Martel

Enclosures as bolded.

J:\APPS\WPFILES\Kathy\POP\AR.RJD\Pr. Hall Corp 11-22-00.wpd

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October 30, 2000

Nathan Weiser and Jim Eppers  
United States Environmental  
Protection Agency  
Region 8  
999 18<sup>th</sup> Street, Suite 500  
Denver, Colorado 80202-2465

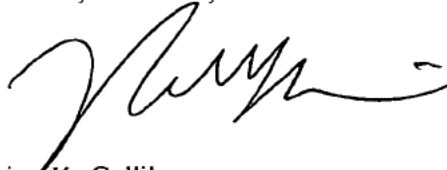
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Office of Enforcement  
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Compliance & Env. Justice

Dear Nathan and Jim:

Enclosed, for your information, is a copy of the Plaintiff's sixth amended complaint.

Sincerely,

GOETZ, GALLIK, BALDWIN & DOLAN, P.C.



Brian K. Gallik

BKG: ads  
Enclosure  
k:\poplar\weiser,eppers 10-30-00



1 Richard J. Dolan  
Brian K. Gallik  
2 GOETZ, GALLIK, BALDWIN & DOLAN, P.C.  
35 North Grand  
3 P.O. Box 428  
Bozeman, MT 59771-0428  
4 (406) 587-0618

5 ATTORNEYS FOR PLAINTIFFS  
6  
7

8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE STATE OF MONTANA  
BILLINGS DIVISION  
10 \* \* \* \* \*

11 CARY G. YOUPEE; D. DWIGHT YOUPEE;  
JOSI YOUPEE; RENE MARTELL; MARVIN  
12 K. YOUPEE, SR., individually and  
as representative and next friend  
13 of MARVIN YOUPEE, JR., WILLIAM  
YOUPEE III, IRIS YOUPEE, and  
14 BRITTANY YOUPEE; EUGENE ABBOTT;  
MARGARET ABBOTT; CHARLES FOUR BEAR,  
15 individually and as representative  
and next friend of JORAY FOUR BEAR,  
16 JONATHON LITTLE, WHIRLWIND, AVA LEE  
LITTLE WHIRLWIND and CHARLES FOUR  
17 BEAR II; ANNA FOUR BEAR; GEORGE F.  
RICKER, SR.; HELEN RICKER;  
18 GEORGE F. RICKER, JR., individually  
and as representative and next friend  
19 of ERIN RICKER; WILLIAM T. RICKER;  
ABIGAIL REDDOOR; IRMA REDDOOR; LAURA  
20 BLEAZARD, individually and as  
representative and next friend of DAVID  
21 BLEAZARD; ROSS BLEAZARD; ERICA BLEAZARD;  
TRIVIAN GRAINGER, individually and  
22 as representative and next friend of  
DANIEL GRAINGER and ADAM GRAINGER; DAVID  
23 GRAINGER; DAWN GRAINGER; DENISE GRAINGER,  
individually and as representative and  
24 next friend of JAY GRANDCHAMP and TINA  
KOHL; DONNA BUCKLES-WHITMER; WARREN  
25 WHITMER; and ALLEN YOUPEE,

Cause No. CV-98-108-BLG-JDS

PLAINTIFFS' SIXTH  
AMENDED COMPLAINT

26 Plaintiffs,

27 v.  
28

1 MURPHY EXPLORATION & PRODUCTION  
CO., a Delaware corporation;  
2 MESA PETROLEUM CO., a Delaware  
corporation; PIONEER NATURAL  
3 RESOURCES USA, INC., a Delaware  
corporation; SAMSON HYDROCARBONS  
4 COMPANY, an Oklahoma corporation;  
MARATHON OIL, an Ohio corporation;  
5 and JOHN DOES 10 through 50,

6  
7 Defendants.

8  
9 The Plaintiffs, for their Sixth Amended Complaint, allege as  
10 follows:

11 1. Plaintiffs are members of households in which one or more  
12 household member is or was an allottee, lessee, or owner in fee of  
13 certain lands in Roosevelt County, Montana, and on which the  
14 groundwater has become polluted due to conduct of Defendants. An  
15 "allottee" is a person who owns an allotment interest in Indian  
16 trust land, held in trust by the United States Government on behalf  
17 of the allottee.

18 2. All of the Plaintiffs are Montana citizens and Montana  
19 residents residing in Roosevelt County, Montana, with the exception  
20 of Plaintiff Cary G. Youpee who is a Montana citizen residing in  
21 Lewis & Clark County, D. Dwight Youpee who is a California  
22 resident, William Youpee III and Iris Youpee who are South Dakota  
23 residents.

24 3. Plaintiff Cary G. Youpee is an individual and a Montana  
25 citizen residing in Helena, Montana, and owns an allotment interest  
26 in certain lands in Roosevelt County, on which lies wells M-19 and  
27 M-23, not shown on Exhibit A hereto, but listed in USGS data.

1        4.     Plaintiff D. Dwight Youpee is an individual and a  
2 California citizen residing in California, and owns a fee interest  
3 in certain lands in Roosevelt County, on which lies well M-14 shown  
4 on Exhibit A hereto.

5        5.     Plaintiff Josi Youpee is an individual and a Montana  
6 citizen, and owns an allotment interest in certain lands in  
7 Roosevelt County, on which she resides with Plaintiff Rene Martell  
8 and Plaintiff Marvin Youpee, Jr., and on which lies wells M-20 and  
9 M-22 shown on Exhibit A hereto, and M-21 not shown on the map but  
10 listed in USGS data.

11       6.     Plaintiff Marvin K. Youpee, Sr., is an individual and a  
12 Montana citizen, and resided as lessee on certain lands in  
13 Roosevelt County, along with Plaintiffs Marvin Youpee, Jr., William  
14 Youpee III, Iris Youpee, and Brittany Youpee, and on which lies  
15 well M-15 shown on Exhibit A, hereto. Plaintiffs Marvin Youpee,  
16 Jr. and Brittany Youpee are Montana citizens, and Plaintiffs  
17 William Youpee III and Iris Youpee, are South Dakota citizens.

18       7.     Plaintiff Eugene Joseph Abbott is an individual and a  
19 Montana citizen residing in Roosevelt County, Montana, on land in  
20 which he holds an allotment interest and on which lies well M-2  
21 shown on Exhibit A hereto. Margaret Abbott is an individual and a  
22 Montana citizen on those same lands with Eugene Joseph Abbott.

23       8.     Plaintiff Charles Four Bear, is an individual and a  
24 Montana citizen residing in Roosevelt County, Montana, and owns a  
25 leasehold interest since 1991 in certain lands in Roosevelt County,  
26 on which lies well M-24 shown on Exhibit A hereto, on which he  
27 resides with his spouse, Plaintiff Anna Four Bear, and his minor

1 children, Plaintiffs Jonathon Little Whirlwind, Ava Lee Little  
2 Whirlwind, Charles Four Bear II, and Jacey Four Bear.

3 9. Plaintiff George F. Ricker, Sr., is an individual and a  
4 Montana citizen residing in Roosevelt County, Montana, and owns a  
5 leasehold interest since 1971 in certain lands in Roosevelt County,  
6 on which lies well M-25 shown on Exhibit A hereto, on which he  
7 resides with Plaintiffs Helen Ricker and Erin Ricker.

8 10. Plaintiff George F. Ricker, Jr., is an individual and a  
9 Montana citizen residing in Roosevelt County, Montana, and resided  
10 at some times relevant hereto on lands in Roosevelt County, on  
11 which lies well M-25 shown on Exhibit A hereto.

12 11. Plaintiff William T. Ricker is an individual and a  
13 Montana citizen residing in Roosevelt County, Montana, and resided  
14 at some times relevant hereto on lands in Roosevelt County, on  
15 which lies well M-25 shown on Exhibit A hereto.

16 12. Plaintiff Abigail Reddoor, is an individual and Montana  
17 citizen residing in Roosevelt County, Montana, and owns an  
18 allotment interest in certain lands in Roosevelt County, on which  
19 lies well M-18 shown on Exhibit A hereto, and on which she resided  
20 and resides at some times relevant hereto.

21 13. Plaintiff Irma Reddoor is an individual and a Montana  
22 citizen residing in Roosevelt County, Montana, and owns an  
23 allotment interest in certain lands in Roosevelt County, on which  
24 lies well M-27 shown on Exhibit A hereto, and on which she resided  
25 at some times relevant hereto.

26 14. Plaintiff Laura Bleazard owns a fee interest in certain  
27 lands in Roosevelt County and on which lies well M-32 shown on

1 Exhibit A hereto, and resides on said property along with  
2 Plaintiffs Ross Bleazard, Erica Bleazard, and David Bleazard.

3 15. Plaintiff Trivian Grainger is an individual and a Montana  
4 citizen residing on certain lands in Roosevelt County, Montana,  
5 along with Plaintiffs David Grainger, Dawn Grainger, Daniel  
6 Grainger, and Adam Grainger, and in which Plaintiff Trivian  
7 Grainger owns an allotment interest, and on which lies well M-38  
8 shown on Exhibit A hereto.

9 16. Plaintiff Denise Grainger is an individual and a Montana  
10 citizen residing in Roosevelt County, Montana, along with  
11 Plaintiffs Jay Grandchamp and Tina Kohl, on certain lands in  
12 Roosevelt County in which Plaintiff Trivian Grainger owns an  
13 allotment interest, and on which lies well M-36 shown on Exhibit A  
14 hereto.

15 17. Plaintiff Donna Buckles-Whitmer is an individual and a  
16 Montana citizen residing in Roosevelt County, Montana, along with  
17 Plaintiff Warren Whitmer, on certain lands in which Plaintiff Donna  
18 Buckles-Whitmer owns a fee interest and on which lies a water well  
19 located in the SE 1/4 of the SE 1/4 of Section 8, Township 38,  
20 Range 51 East.

21 18. Plaintiff Allen F. Youpee is an individual and a Montana  
22 citizen residing in Roosevelt County, Montana, and owns an  
23 allotment interest since 1991 in certain lands in Roosevelt County,  
24 on which lies a water well, M-39, not shown on the map but listed  
25 in USGS data and located in the NW 1/4 of the SW 1/4 of Section 33,  
26 Township 38, Range 51 East.

27 19. Defendant Murphy Exploration & Production Company

1 ("Murphy Exploration") is a Delaware corporation registered to do  
2 business in Montana, with its principal place of business in El  
3 Dorado, Arkansas. At times herein mentioned, Murphy Exploration  
4 was engaged in exploration for oil, the drilling of oil wells, and  
5 the production of oil therefrom in the State of Montana, and in the  
6 County of Roosevelt.

7 20. Defendant Mesa Petroleum Co. ("Mesa"), is a Delaware  
8 corporation, no longer registered to do business in Montana, with  
9 principal place of business in Texas. At times herein mentioned,  
10 Mesa was engaged in exploration for oil, the drilling of oil wells,  
11 and the production of oil therefrom in the State of Montana, and in  
12 the County of Roosevelt.

13 21. Defendant Pioneer Natural Resources USA, Inc. ("Pioneer  
14 USA") is a Delaware corporation, registered to do business in  
15 Montana, and is the successor to Defendant Mesa Petroleum Company.  
16 Pioneer Natural Resources USA, Inc, has assumed the liabilities of  
17 Mesa with respect to the oil exploration and drilling of oil wells  
18 at issue in this case. Pioneer Natural Resources USA, Inc. has its  
19 principal place of business in Texas and is a subsidiary of Pioneer  
20 Natural Resources Company. At times herein mentioned, Pioneer  
21 Natural Resources USA, Inc., or its successor, was engaged in  
22 exploration for oil, the drilling of oil wells, and the production  
23 of oil therefrom in the State of Montana, and in the County of  
24 Roosevelt.

25 22. Defendant Samson Hydrocarbons Company ("Samson"), is an  
26 Oklahoma corporation, registered to do business in Montana, with  
27 principal place of business in Tulsa, Oklahoma. Samson is the

1 successor in interest to Polumbus Petroleum Corporation and W.R.  
2 Grace & Co., and Grace Petroleum Corporation, and has assumed the  
3 liabilities associated with the oil exploration and drilling of  
4 those predecessors at issue in this case. At times herein  
5 mentioned, Samson, or its predecessors or affiliated companies, was  
6 engaged in exploration for oil, the drilling of oil wells, and the  
7 production of oil therefrom in the State of Montana, and in the  
8 County of Roosevelt.

9 23. Defendant Marathon Oil is an Ohio corporation in good  
10 standing in the State of Montana, with its principal place of  
11 business located in Houston, Texas. Upon information and belief,  
12 in 1982 Defendant Marathon became a wholly owned subsidiary of  
13 United States Steel Corporation, which later became USX  
14 Corporation. Further, upon information and belief, in early 1986  
15 USX or Marathon acquired Texas Oil and Gas Corporation, and assumed  
16 the liabilities of Texas Oil and Gas Corporation's oil exploration  
17 and drilling activities at issue in this case.

18 24. Defendants John Does 10 through 50 are persons (either  
19 individuals, corporations, partnerships, or some other entity),  
20 whose identities are currently unknown to Plaintiffs, but who are,  
21 or have been, involved in the exploration for oil, the drilling of  
22 oil wells, or the production of oil therefrom in the State of  
23 Montana, and in the County of Roosevelt, as is alleged herein, and  
24 by reason of such activities are liable to Plaintiffs.

25 25. The Defendants own and/or operate, or did own and/or  
26 operate oil and gas production facilities, including but not  
27 limited to oil or gas production wells, produced brine disposal



1 wells, secondary recovery injection wells, drilled and abandoned  
2 dry holes, production and waste pits, storage tanks, oil/water  
3 separators, and distribution pipelines and pumping facilities, in  
4 portions of the East Poplar Oil Field located within Township 28  
5 North, Range 51 East in Roosevelt County, in the State of Montana.

6 26. This Court has subject matter jurisdiction over this  
7 dispute.

8 27. At various times, up to and including the present,  
9 Defendants or their predecessors-in-interest have, in the area near  
10 and around the Plaintiffs' wells: drilled oil wells; installed,  
11 operated and maintained oil pipelines; installed, operated and  
12 maintained tanks for the collection of oil and other fluids  
13 recovered from producing oil wells; operated plants designed to  
14 remove salt water from oil produced; and installed, operated and  
15 maintained pipelines to convey salt water brine to salt water wells  
16 and reinject the same into the sub-surface strata. Alternatively,  
17 upon information and belief, some Defendants are the successors in  
18 interest to others who have engaged in such activities, and as  
19 successors are liable to Plaintiffs as alleged herein.

20 28. Salt water or other foreign substances and contaminants  
21 have escaped from Defendants' pipelines, pits, wells and/or other  
22 devices under the control of Defendants and have percolated into  
23 the groundwater under Plaintiffs' lands.

24 29. Before said salt water or other foreign substances and  
25 contaminants escaped and percolated into the groundwater under  
26 Plaintiffs' lands, there were, under the surface of Plaintiffs'  
27 lands, aquifers of good and sufficient water which could be used



1 for drinking, stock and irrigation water.

2 30. As a result of the escaping salt water or other foreign  
3 substances and contaminates into the ground water under Plaintiffs'  
4 lands, and the percolation of same into the soils underlying  
5 Plaintiffs' surface, the percolating waters and aquifers underlying  
6 Plaintiffs' premises became polluted and contaminated and unfit for  
7 human or animal consumption and unfit for irrigation, thereby  
8 destroying the value and utility of Plaintiffs' ground water and  
9 Plaintiffs' wells.

10 31. Said leaking salt water or other foreign substances and  
11 contaminates continue to pollute and contaminate the wells and  
12 ground waters of Plaintiffs' lands and render them unfit for use  
13 and/or human or animal consumption or irrigation.

14 32. The United States Geological Survey (USGS) and United  
15 States Environmental Protection Agency (EPA) have conducted  
16 investigations of the saline-water contamination in and around the  
17 East Poplar Oil Field. The USGS reviewed ground water and surface  
18 water quality data from existing private water wells, new  
19 monitoring wells, oil wells, brine-injection wells, and the Poplar  
20 River in the East Poplar Oil field. In addition, the USGS  
21 completed an electromagnetic geophysical survey, by measuring the  
22 electromagnetic apparent conductivity corrected for local  
23 anomalies, over a 21.6 square mile area to assist in delineating  
24 the extent of the saline-water contamination plumes..  
25 Uncontaminated ground-water in the area had total dissolved solids  
26 ("TDS") content ranging from 427-2,680 mg/L. The areas delineated  
27 by the ground water study as part of the brine contaminated plumes

1 contained total dissolved solid levels as high as 91,100 mg/L.

2 33. In July, 1999, the EPA took ground water samples from the  
3 wells at private homes within the area shown by the USGS study to  
4 have brine contamination. EPA found TDS levels at these homes to  
5 range from 1850 to 4890 mg/L.

6 34. EPA also collected water samples at several homes within  
7 the contamination area to determine if any contamination by  
8 hydrocarbons or volatile organic compounds (VOCs) was also a  
9 concern. Samples taken by both EPA at the existing home sites and  
10 USGS at several monitoring wells showed benzene contamination which  
11 exceeded the maximum contaminant levels under the Primary Drinking  
12 Water Standards for benzene.

13 35. Benzene is a known human carcinogen. A causal  
14 relationship between benzene exposure and leukemia has been clearly  
15 established. Benzene exposure has also been associated with cancer  
16 of the lymph system (lymphoma), lung cancer, and bladder  
17 (urothelial) cancer. Benzene may also increase the risk of cancer  
18 in humans who are exposed at lower levels over a long period of  
19 time.

20 36. Dissolved-solids were also found in samples taken within  
21 the area which also presents an imminent and substantial  
22 endangerment to the health of persons. Total dissolved solids in  
23 excess of 1,000-2,000 mg/L, found within the study area and samples  
24 taken within the area, including wells owned by Plaintiffs, is  
25 unpalatable and will not be voluntarily consumed by individuals.  
26 If an individual has no other source of water and is forced to  
27 consume water with TDS levels over 10,000 mg/L, the adverse health

1 effects include severe osmotic diarrhea and severe dehydration.  
2 Continued consumption after the onset of the above conditions may  
3 result in death.

4 37. In light of the described contamination of the ground  
5 water and based upon the data obtained by EPA regarding the geology  
6 in the affected area, the general direction of groundwater  
7 migration in the Quaternary Deposits USDW and water quality  
8 assessments from monitoring and private wells, and review of  
9 historical land use in the area, the EPA determined that  
10 Defendants' oil production practices and/or equipment have caused  
11 or contributed and/or are continuing to cause or contribute to the  
12 endangerment of the underground source of drinking water. The EPA  
13 also found an imminent and substantial endangerment to the health  
14 of persons within the contaminated area.

15 38. Accordingly, on or about September 30, 1999, the United  
16 States Environmental Protection Agency Issued an Emergency  
17 Administrative Order, pursuant to the Safe Drinking Water Act, 42  
18 U.S.C. § 300i(a) requiring the Defendants to provide the  
19 Plaintiffs, and others, with an alternative source of water that  
20 meets EPA drinking water standards for drinking and cooking to all  
21 residences in the contaminated area. EPA also required the  
22 Defendants to submit a proposal for cleaning up the contaminated  
23 plumes and a proposed plan for a permanent alternative water  
24 supply. EPA later filed a First Amended Emergency Administrative  
25 Order containing the same relevant findings and Orders. See App.  
26 B.

27 39. As a direct and proximate result of the above complained

1 of salt water or other foreign substances and contaminates leaking  
2 into the wells and ground water of Plaintiffs' premises, Plaintiffs  
3 have suffered, and continue to suffer harm, inconvenience and  
4 damages, including, but not limited to: (1) loss of the underground  
5 water aquifers for domestic and other purposes and (2) the loss of  
6 the ability to use the lands for certain purposes such as  
7 agriculture and living and stigma damages. These damages have  
8 resulted in diminution in the value of Plaintiffs' lands; increased  
9 expenses for past, present and future living; loss of enjoyment of  
10 life; mental and emotional distress, including the fear of  
11 contracting diseases and damage to personal property.

12 COUNT ONE (NEGLIGENCE)

13 40. Plaintiffs reallege Paragraphs 1-39 as if fully set forth  
14 under this Count.

15 41. Defendants have carried on their operations in a  
16 negligent manner and their negligence has proximately caused the  
17 damages to Plaintiffs as complained of in the previous paragraphs.

18 COUNT TWO (NEGLIGENCE - RES IPSA LOQUITUR)

19 42. Plaintiffs reallege Paragraphs 1-41 as if fully set forth  
20 under this Count.

21 43. Defendants have carried on their operations in a  
22 negligent manner and their negligence has proximately caused the  
23 damages to Plaintiffs as complained of in the previous paragraphs.  
24 Further, the negligence of said Defendants, although performed  
25 through means and actions or admissions at this time unknown to  
26 Plaintiffs, may be inferred or presumed by the doctrine of Res Ipsa  
27 Loquitur from the facts that (1) such escape of salt water or other

1 foreign substances would not ordinarily be expected to occur absent  
2 someone's negligence; (2) the instrumentalities [i.e., wells,  
3 tanks, holding ponds and pipelines] through which salt water and  
4 hydrocarbons were stored and transferred were at all relevant times  
5 herein within the exclusive control of the Defendants or their  
6 predecessors for whose negligence Defendants are responsible; and  
7 (3) said escape of salt water or other foreign substances was not  
8 the result of any conduct on the part of Plaintiffs.

9 COUNT THREE (NUISANCE)

10 44. Plaintiffs reallege Paragraphs 1-43 as if fully set forth  
11 under this Count.

12 45. The escaping salt water or other foreign substances from  
13 the ponds, tanks and/or pipelines of Defendants which contaminated  
14 and polluted and continue to contaminate and pollute the wells,  
15 groundwater and lands of Plaintiffs was and is a nuisance.

16 46. Such nuisance is a private nuisance. In the alternative,  
17 it is a public nuisance which specially injurious to Plaintiffs.

18 47. Said nuisance is a continuing temporary nuisance.

19 48. The Defendants are strictly liable for the damages  
20 resulting from the nuisance, without regard to their negligence.  
21 Alternatively, the Defendants were negligent as set forth above,  
22 and thus are liable for all damages caused by them.

23 49. Plaintiffs are entitled to an injunction, requiring  
24 defendants to abate the nuisance they created by: (1) ceasing from  
25 depositing or allowing to be deposited additional salt water or  
26 other foreign substances in the underground aquifer; and (2)  
27 cleaning up the contamination which already exists in the aquifer,

1 to restore it to its previous condition.

2 50. Plaintiffs are entitled to an award of damages,  
3 including: (1) compensatory damages for harm already suffered; (2)  
4 prospective compensatory damages for harm which will be suffered in  
5 the future; (3) stigma damages; (4) restoration/remediation  
6 damages; and (5) as alleged below, punitive damages.

7 COUNT FOUR (STRICT LIABILITY)

8 51. Plaintiffs reallege Paragraphs 1-50 as if fully set forth  
9 under this Count.

10 52. By storing and transporting large volumes of salt water  
11 or other foreign substances, through the pipelines and the holding  
12 ponds and tanks within their control, and by permitting such salt  
13 water or other foreign substances to escape into the groundwater  
14 and proximately cause the injury and damage to Plaintiffs as  
15 hereinabove complained of, Defendants have rendered themselves  
16 strictly liable to Plaintiffs in the sums hereinbelow set forth.

17 COUNT FIVE (TRESPASS)

18 53. Plaintiffs reallege Paragraphs 1-52 as if fully set forth  
19 under this Count.

20 54. The escaping saltwater or other foreign substances from  
21 the ponds, tanks, wells and/or pipelines of Defendants which  
22 contaminated and polluted, and continue to contaminate and pollute  
23 the wells, groundwater and lands of Plaintiffs, has resulted in an  
24 interference with the use of the Plaintiffs' water and constitute  
25 an intrusion upon their property without the Plaintiffs' consent  
26 which has resulted in harm to the Plaintiffs and therefore  
27 constitutes a trespass.

1 55. Moreover, the Defendants have failed to take any steps to  
2 remove from the Plaintiffs' property the contaminated water under  
3 which the Defendants are under a duty to remove which in turn has  
4 caused harm to the Plaintiffs. As a result, the Defendants'  
5 conduct constitutes a trespass.

6 56. Such trespass is also a continuing trespass.

7 57. As a result of the Defendants' trespass, the Plaintiffs  
8 are entitled to an award of damages and an injunction as more  
9 particularly described in preceding paragraphs.

10 COUNT SIX (UNJUST ENRICHMENT)

11 58. Plaintiffs reallege Paragraphs 1-57 as if fully set forth  
12 under this Count.

13 59. The Defendants have received through their oil  
14 exploration, drilling and production activities, substantial  
15 financial benefits. Another consequence of the Defendants' oil  
16 exploration, drilling and production activities is the  
17 contamination of the Plaintiffs' groundwater and violation of the  
18 Plaintiffs' right to clean water.

19 60. The Defendants have taken no steps, and have refused to  
20 take any steps, to compensate the Plaintiffs for their injuries and  
21 damages, or to otherwise remedy the harm caused the Plaintiffs as  
22 a result of the very activities that bestowed upon the Defendants  
23 substantial financial benefits. Accordingly, Defendants have been  
24 unjustly enriched.

25 61. As a result of this unjust enrichment, the Plaintiffs are  
26 entitled to damages, restitution, and/or other compensation in  
27 amounts as will be just to fully compensate the Plaintiffs,

1 including an award of interest on all such sums to avoid injustice.

2 COUNT SEVEN (PUNITIVE DAMAGES)

3 62. Plaintiffs reallege Paragraphs 1-61, and 64-75 as if  
4 fully set forth under this Count.

5 63. Defendants, in polluting and contaminating Plaintiffs'  
6 lands, groundwater and domestic wells, have acted with malice in  
7 that they had knowledge of facts or intentionally disregarded facts  
8 that created a high probability of injury to the Plaintiffs and the  
9 environment and: either deliberately proceeded to act in conscious  
10 or intentional disregard of the high probability of injury to the  
11 Plaintiffs and the environment; or deliberately proceeded to act  
12 with indifference to the high probability of injury to the  
13 Plaintiffs and the environment. Accordingly, Plaintiffs are  
14 entitled to an award of punitive damages against the Defendants.

15 COUNT EIGHT (VIOLATION OF MONTANA CONSTITUTION)

16 64. Plaintiffs reallege Paragraphs 1-63 and 68-75 as if fully  
17 set forth under this Count.

18 65. The Montana Constitution imposes a duty upon the  
19 Defendants to maintain and improve a clean and healthful  
20 environment for present and future generations. The Constitution  
21 also guarantees to the Plaintiffs the right to a clean and healthy  
22 environment and prohibits environmental degradation, including the  
23 contamination and pollution of groundwater, domestic wells, land  
24 and rivers and streams without a showing of a compelling state  
25 interest and where the environment has been damaged, Plaintiffs  
26 have a right to obtain damages from the Defendants and to compel  
27 the Defendants to remedy the damage they have caused through the



1 clean-up of the contaminated groundwater.

2 66. Defendants, in polluting and contaminating Plaintiffs'  
3 lands, groundwater and domestic wells, have violated, and continue  
4 to violate, the Plaintiffs' constitutional right to a clean and  
5 healthy environment and there is no state interest in doing so.

6 67. As a result of the Defendants' constitutional  
7 violation(s), the Plaintiffs are entitled to damages, restitution,  
8 and/or other compensation in amounts as will be just to fully  
9 compensate the Plaintiffs, including an award of interest on all  
10 such sums to avoid injustice and vindicate their constitutional  
11 right to a clean and healthy environment.

12 COUNT NINE (ATTORNEYS' FEES)

13 68. Plaintiffs reallege Paragraphs 1-67 and 71-75 as if fully  
14 set forth under this Count.

15 69. It was necessary for the Plaintiffs to file suit in this  
16 action to vindicate the strong societal importance, as reflected  
17 and embodied in the Montana Constitution, of a clean and healthful  
18 environment. Moreover, it was necessary for the Plaintiffs to file  
19 this action to vindicate these interests and the burden upon the  
20 Plaintiffs was and is significant. As a result of the Plaintiffs'  
21 efforts to redress the significant and ongoing wrongs of the  
22 Defendants, this litigation will benefit a large class of people,  
23 including those whose drinking water is contaminated, or will be  
24 contaminated by the actions of the Defendants, including apparent  
25 future damage to the Poplar River, a tributary of the Missouri  
26 River, and eventually the Missouri River, a surface water of the  
27 United States.

1 70. For these reasons, Plaintiffs are entitled to their  
2 reasonable attorneys' fees and costs incurred in the prosecution of  
3 this action.

4 COUNT TEN (MEDICAL MONITORING)

5 71. The Plaintiffs incorporate Paragraphs 1-70 of this  
6 Complaint as if fully set forth under this Count.

7 72. The Plaintiffs have been exposed to a proven hazardous  
8 substance (benzene) through the negligence and/or recklessness of  
9 the Defendants.

10 73. As a factual and legal result of this exposure, the  
11 Plaintiffs suffer an increased risk of contracting a serious  
12 latent disease.

13 74. The increased risk of contracting a disease makes  
14 periodic diagnostic medical examinations reasonably necessary and  
15 monitoring and testing procedures exist which make the early  
16 detection and treatment of the disease possible and beneficial.

17 75. Accordingly, Plaintiffs are entitled to recover from  
18 the Defendants the cost of periodic diagnostic medical  
19 examinations as a result of their exposure to a known hazardous  
20 substance(s).

21 WHEREFORE: Plaintiffs pray for judgment against Defendants  
22 as follows:

23 1. Compensatory damages, including, but not limited to,  
24 diminution in value of property, the cost to repair the damage to  
25 and restoration of the groundwater which provides the sole source  
26 of potable water for the Plaintiffs, mental and emotional stress  
27 and anguish, loss of enjoyment of life, the cost of regular

1 medical monitoring as a result of exposure to a known hazardous  
2 substance, increased expenses (past, present and future), and  
3 stigma damages in amounts to be proved at trial, together with  
4 damages to compensate them for the violation of their fundamental  
5 constitutional right to a clean and healthful environment;

6 2. Punitive damages, in an amount to be fixed by the jury;

7 3. That the Court enter an order enjoining Defendants from  
8 leaking, spilling or otherwise allowing its salt water or other  
9 foreign substances to escape into Plaintiffs' lands or into  
10 Plaintiffs' groundwater;

11 4. That the Court require Defendants to abate the nuisance  
12 by cleaning up the aquifer under Plaintiffs' lands;

13 5. An award of interest as required to avoid injustice;

14 6. For an award of Plaintiffs' reasonable attorneys' fees  
15 and costs; and

16 7. For such other and further relief to which it appears  
17 Plaintiffs are entitled or which is just and equitable.

18 DATED this 24 day of October, 2000.

19 Richard J. Dolan  
20 Brian K. Gallik  
21 GOETZ, GALLIK, BALDWIN & DOLAN, P.C.  
22 35 North Grand  
23 P.O. Box 428  
24 Bozeman, MT 59771-0428  
25 (406) 587-0618

26 By: 

27 Brian K. Gallik  
28 ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the above and foregoing was duly served upon the following by depositing same, postage prepaid, in the United States mail this 24 day of October, 2000.

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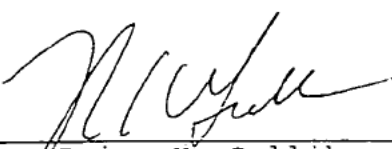
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" "

  
\_\_\_\_\_  
Brian K. Gallik

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# Ground-water contamination in the East Poplar oil field

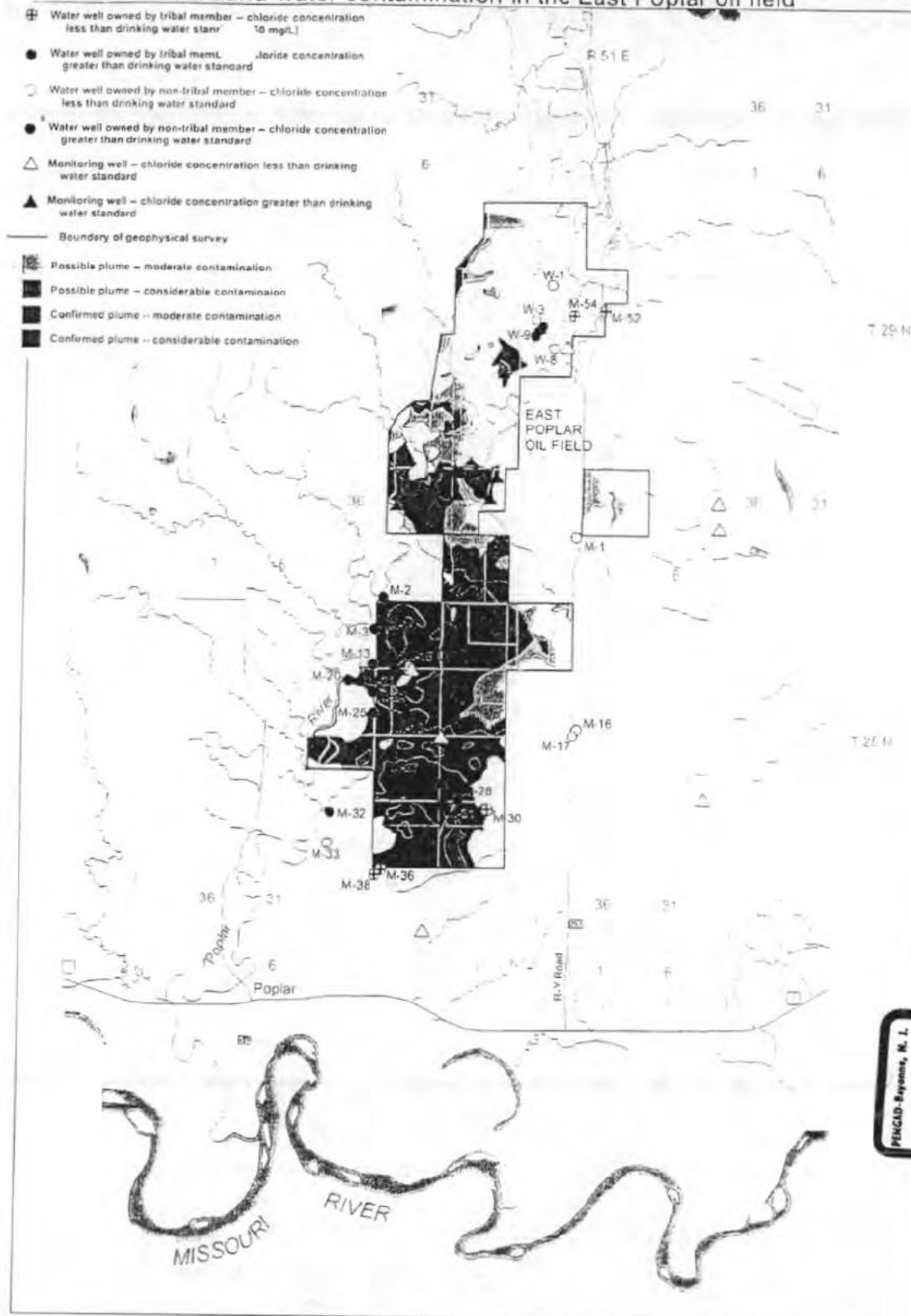


EXHIBIT  
A

Well number	Well owner	Chloride concentration (in mg/L) *	Year sampled	Well number	Well owner	Chloride concentration (in mg/L) *	Year sampled
M-1	Zimmerman, Bill	36	1991	M-30	Trotter, Tim	22	1992
M-2	Abbotts, Marge	420	1990	M-31	Trotter, Tim	32,000	1993
M-3	Kinn, Robert	260	1990	M-32	Bleazard, Ross and Laura	330	1993
M-13	Kinn, Michael	2,800	1990	M-33	Loeering, Dei	7.3	1990
M-14	Youpee, Josie	430	1991	M-36	Grandchamp, Doug and Denise	40	1990
M-15	Youpee, Marvin and Stephanie	780	1991	M-38	Grainger, Trivian	34	1989
M-16	Come, Diane	200	1990	M-52	Kohl, Cheryl and Daniel	8.8	1991
M-17	Come, Diane	20	1990	M-54	Grainger, Iva	110	1990
M-18	Reddoor, Abigail	3,700	1991	W-1	Lien, Bud	13	1991
M-20	Youpee, William	2,300	1990	W-3	Lien, Bud	13	1991
M-22	Youpee, William	3,100	1990	W-8	Lien, Bud	32	1991
M-24	Fourbear, Charles	1,400	1991	W-9	Lien, Bud	1,100	1989
M-25	Ricker, George	1,100	1990				
M-26	Reddoor, Irma	1,700	1990				
M-28	Lockman, Curly	7,900	1991				

\* The U.S. Environmental Protection Agency has established that the Maximum Secondary Contaminant Level for chloride is 250 mg/L.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION-VIII

IN THE MATTER OF

AMARCO Resources Corporation,

Marathon Oil Company,

Murphy Exploration and  
Production Company,

Pioneer Natural Resources USA  
Incorporated,

W.R. Grace & Company-Conn.,

Respondents

East Poplar Oil Field  
Fort Peck Indian Reservation  
Montana

Proceedings under  
Section 1431(a)  
of the Safe Drinking Water  
Act, 42 U.S.C. §300g-i(a)

Docket No. SDWA-8-99-68

FIRST AMENDED EMERGENCY  
ADMINISTRATIVE ORDER

DESCRIPTION

This Order revokes and supercedes in its entirety the preceding Order Docket #SDWA-8-99-68 which was issued September 30, 1999.

I. STATUTORY AUTHORITY

1. The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1431(a) of the Safe Drinking Water Act (the Act), 42



U.S.C. §300i(a). The authority to take this action has been properly delegated to the undersigned EPA program supervisors.

## II. ENFORCEMENT RESPONSIBILITY

1. EPA has primary enforcement responsibility for the Act on the Lands within the exterior boundary of the Fort Peck Indian Reservation in Roosevelt County in the State of Montana.

## III. DESCRIPTION OF RESPONDENTS

1. AMARCO Resources Corporation is a Texas corporation and did business in the state of Montana and therefore is a "person" within the meaning of 40 CFR §141.2 and §144.2 and Section 1401(12) of the Act, 42 U.S.C. §300f(12). AMARCO Resources Corp. is also using the trade name Westdale, Inc. in Texas.
2. Marathon Oil Company is an Ohio corporation and therefore a "person" within the meaning of 40 CFR §141.2 and §144.2 and Section 1401(12) of the Act, 42 U.S.C. §300f(12). TXO Production Corp. a Delaware corporation merged with Marathon Oil Company. TXO Production Corp was a trade name for Texas Oil & Gas Corp. a Delaware corporation.
3. Murphy Exploration & Production Company is a Delaware corporation doing business in the State of Montana and

therefore is a "person" within the meaning of 40 CFR §141.2 and §144.2 and Section 1401(12) of the Act, 42 U.S.C. §300f(12).

4. Pioneer Natural Resources USA, Inc. is a Delaware corporation and therefore a "person" within the meaning of 40 CFR §141.2 and §144.2 and Section 1401(12) of the Act, 42 U.S.C. §300f(12). Pioneer Natural Resources USA, Inc. acquired the assets of Mesa Petroleum Co. Mesa Petroleum Co. did business in the state of Montana.
5. W.R. Grace & Co. is a Connecticut corporation and therefore a "person" within the meaning of 40 CFR §141.2 and §144.2 and Section 1401(12) of the Act, 42 U.S.C. §300f(12). Polumbus Petroleum Corporation in its merger with W.R. Grace & Co. became Grace Petroleum Corporation. Polumbus Petroleum Corporation merged with W.R. Grace & Co. a Connecticut corporation in 1976. Polumbus did business in the state of Montana.
6. Respondents own and/or operate or did own and/or operate oil and gas production facilities, including but not limited to oil or gas production wells, produced brine disposal wells, secondary recovery injection wells, drilled and abandoned dry holes, production and waste pits, storage tanks, oil/water separators, and distribution pipelines and pumping facilities, in portions of the East Poplar Oil Field



located within Township 28 North, Range 51 East on the Fort Peck Indian Reservation in Roosevelt County in the State of Montana.

#### IV. FINDINGS

1. The Quaternary Deposits are the most recent geologic deposits of the Cenozoic Era, covering approximately the past 1.65 million years. These Quaternary Deposits in the East Poplar Oil Field area consist mainly of the Winota Gravel, Sprole Silt, glacial till, fan alluvium and colluvium, and alluvium. The Pleistocene Winota Gravel, Sprole Silt, glacial till, and dune sand are referred to as "glacial deposits". Lithologic logs from the monitoring wells drilled in the area show depths ranging from of 55 to 100 feet. The Pleistocene and Holocene fan alluvium and colluvium and Holocene alluvium are referred to as "alluvium" and overlies the glacial deposits in many areas with depths ranging from 20 to 56 feet. The alluvium underlies flood plain deposits. Water in Quaternary deposits east of the Poplar River generally moves westward toward the river where it merges with southward-flowing ground water in the Poplar River valley. Downward movement of water from the Quaternary deposits is not a significant problem, the underlying Bearpaw Shale is relatively impermeable and forms a confining layer.

2. These Quaternary glacial deposits and alluvium are the sole developed source of ground water for private resident wells in and around the East Poplar Oil Field and the Poplar, Montana and tribally-owned Poplar Head Start Center public water supply systems. Depth to the water table below land surface in this area generally ranges from about 5 to 44 feet in the alluvium and 7 to 139 feet in the glacial deposits.
3. The Quaternary Deposits form an unconfined aquifer which contains a sufficient quantity of ground water to supply a public water system. A public water system (PWS), as defined by 40 C.F.R. § 141.2, means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year.
4. The Quaternary Deposits are an underground source of drinking water (USDW). A USDW, as defined under 40 C.F.R. § 144.3, means an aquifer or its portion which supplies any PWS or which contains a sufficient quantity of ground water to supply a public water system; and currently supplies drinking water for human consumption or contains fewer than 10,000 mg/L total dissolved solids. Past sampling from private ground water wells in the area showed total dissolved solids

content ranging from 427-2,680 mg/L (as discussed in the U.S. Geological Survey study below).

5. The United States Geological Survey (USGS) has conducted an extensive ground water investigation of saline-water contamination in and around the East Poplar Oil Field. The USGS reviewed ground water and surface water quality data from existing private water wells, new monitoring wells, oil wells, brine-injection wells, and the Poplar River in the East Poplar Oil Field area. Additionally, the USGS completed an electromagnetic geophysical survey, by measuring the electromagnetic apparent conductivity corrected for local anomalies (wells, pipelines, etc.), over a 21.6 square mile area to assist in the delineating the extent of the saline-water contamination plumes. Uncontaminated ground-water in the area had total dissolved solids content ranging from 427-2,680 mg/L. The areas delineated by the ground water study as part of the brine contaminated plumes contained total dissolved solid levels as high as 91,100 mg/L. In July 1999, EPA took ground water samples from the wells at private homes within the area shown by the USGS study to have brine contamination. EPA found TDS levels at these homes to range from 1850 to 4890 mg/L.
6. EPA collected water samples at several of the home sites in the contamination area to determine if any

contamination by hydrocarbons or volatile organic compounds (VOCs) was also a concern. Brine contamination plumes associated with oil and gas production operations will have remnants of hydrocarbons from the production formation. Samples taken by both EPA at the existing home sites and USGS at several monitoring wells showed benzene contamination. A sample taken at one home site had benzene contamination between 58-78 ug/L or 0.058-0.078 mg/L, while other samples taken at USGS monitoring wells in the field were between 1.58-4.86 ug/L or 0.00158-0.00486 mg/L.

7. Under the Primary Drinking Water Standards, the maximum contaminant level (MCL) for benzene, as set forth in 40 C.F.R. § 141.61, is 0.005 mg/L. Secondary Drinking Water Standards, as set out in 40 C.F.R. § 143.3, for dissolved-solids is 500 mg/L.
8. The presence and entry of benzene at levels as high as .078 mg/L in the Quaternary Deposits USDW may present an imminent and substantial endangerment to the health of persons.
9. Benzene is a known human carcinogen. A causal relationship between benzene exposure and leukemia has been clearly established. Benzene exposure has also been associated with cancer of the lymph system (lymphoma), lung cancer, and bladder (urothelial)

cancer. Benzene may increase the risk of cancer in humans who are exposed at lower levels over a long period of time.

10. The presence and entry of dissolved-solids at levels between 10,000 and 91,100 mg/L where found in the Quaternary Deposits USDW may present an imminent and substantial endangerment to the health of persons.
11. Total dissolved solids in excess of 1,000-2,000 mg/L is unpalatable and will not be voluntarily consumed by individuals. If an individual has no other source of water and is forced to consume water with TDS levels over 10,000 mg/L, the adverse health effects include severe osmotic diarrhea and severe dehydration. Continued consumption after the onset of the above conditions may result in death.
12. Contaminants, including dissolved-solids and benzene are present in, entering, and are likely to continue to enter the Quaternary Deposits.
13. Based upon the data obtained regarding the geology in the affected area, the general direction of groundwater migration in the USDW and water quality assessments from monitoring and private wells, and review of historical land use in the area, EPA has determined that Respondents' oil production practices and/or equipment have caused or contributed and/or are continuing to cause or contribute to the endangerment

of a USDW.

14. EPA has consulted with the Assiniboine and Sioux Tribes of the Fort Peck Reservation prior to issuing this Order. The Tribes notified EPA that they have not taken an action to protect the health of persons from the contaminants that are likely to be present in the Quaternary Deposits USDW.
15. To date, no governmental action has been taken to protect the health of persons from the contaminants that are likely to be present in the Quaternary Deposits USDW due to Respondents' operations of their oil production operations. The State of Montana, which does not have jurisdiction in this case, has been contacted by EPA. The State notified EPA that it has not taken an action and does not intend to take an action in this case.
16. EPA, therefore, finds that the actions ordered below are authorized under Section 1431 of the Act, 42 U.S.C. §300(i), and are necessary in order to protect the health of persons.

#### V. PURPOSE

1. The purpose of this order is to describe actions which EPA believes necessary to remove the imminent and substantial endangerment to the health of persons located within the areas described in this order. EPA

believes that the actions necessary to remove the threat include, but may not be limited to, supplying permanent alternate water, identification of all the contaminant source(s), containment of the existing and on-going contaminants, and possible remediation of the existing and on-going contaminants.

2. EPA will approach the steps outlined in paragraph 1 (above) in a phased manner. Submission of the information required under paragraphs VI(1)(B) through VI(1)(E) of this Order is expected to provide EPA with more certainty regarding the specific sources of the contaminants and will allow for an opportunity under §1431(a) of the Safe Drinking Water Act to issue a subsequent Order to the parties specifically found to be responsible for the historic and/or on-going Quaternary aquifer contamination in the East Poplar Oil Field. EPA will focus any subsequent Order to include only those parties who are found to have causation clearly established with the present and/or on-going contamination.

#### VI. EMERGENCY ADMINISTRATIVE ORDER

1. Based on the foregoing findings, taking into account the imminent and substantial endangerment to the health of persons and other such matters as justice may require, as shown by the administrative record, and

under authority of §1431(i) of the Act, 42 U.S.C.  
§300(i). Respondents are ordered to perform the  
following actions:

A. PROVIDE TEMPORARY SAFE DRINKING WATER SOURCE TO  
IDENTIFIED RESIDENCES

The Respondents shall continue to provide an  
alternative source of water that meets the EPA drinking  
water standards (40 C.F.R. Part 142) for drinking and  
cooking to the residences of the contaminated area.  
The water shall be provided in the quantity of one  
gallon per person per day in each residence. This  
water is to be provided on a regular basis in an easily  
accessible manner to the residence. The residences  
known to have contaminated water or which have drinking  
water which is threatened with contamination at this  
time are listed below and on the attached map  
(Attachment #1) :

Current Resident	City	State	Residence Address	Sec	Twn.	Rge
Kohl, Danny	Poplar	MT	[REDACTED]	15	29N	51E
Lien, Birdell	Poplar	MT	[REDACTED]	20	29N	51E
Zimmerman, Bill	Poplar	MT	[REDACTED]	01	28N	51E
Abbott, Joe	Poplar	MT	[REDACTED]	[REDACTED]	28N	51E
Kirn, Audrey	Poplar	MT	[REDACTED]	08	28N	51E
Kirn, Michael	Poplar	MT	[REDACTED]	08	28N	51E
Gray Hawk, Rachel	Poplar	MT	[REDACTED]	16	28N	51E



Trottier, Tim & Donna	Poplar	MT	██████████	16	28N	51E
Lockman, Lyle	Poplar	MT	██████████	16	28N	51E
Four Bears, Charles	Poplar	MT	██████████	17	28N	51E
Martell, Rene & Josi	Poplar	MT	██████████	17	26N	51E
Ricker Sr., George & Helen	Poplar	MT	██████████	17	28N	51E
Bleazard, Ross & Laura	Poplar	MT	██████████	29	28N	51E
Whitmer, Warren & Donna	Poplar	MT	██████████	29	28N	51E
Loeering, Mavis	Poplar	MT	██████████	29	28N	51E
Kirn Sr., Jesse	Poplar	MT	██████████	32	28N	51E
Grandchamp, Denise	Poplar	MT	██████████	33	28N	51E
Grainger, Trivian	Poplar	MT	██████████	33	28N	51E
Grainger, Iva	Poplar	MT	██████████	15	29N	51E
Ranf, Marie and Corne, Warren	Poplar	MT	██████████	13	28N	51E

There may be a need to supply domestic water to additional residents, including other residents or locations drawing domestic water from the Quaternary

aquifer. Respondents, upon notification by EPA, shall deliver this water until such time as the local water source has been deemed by EPA as safe for consumptive use or a permanent alternative source of water is provided.

B. PREPARE AND SUBMIT WELL INFORMATION

The Respondents shall provide a historical record for each well listed and any other wells drilled, completed, reworked, converted, operated or plugged by Respondents within the sections of Township 28N and Range 51E, Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, and 24. As information becomes available to Respondents, each Respondent shall submit the information to the EPA. At the latest, all information required from all Respondents shall be submitted by March 31, 2000. Attached is a list of wells known by Section, Township, and Range, and by company, for which, at a minimum, the Respondents must provide the well information listed below (Attachment #2). The drilling, construction, well rework, conversion, plugging and other pertinent records submitted shall include but not be limited to the information listed below. In each case service company records associated with each well activity shall be included. Respondents shall include information on each instance of well integrity failures, that involved

casing leaks, flow behind the casing and/or any fluids surfacing at or near the wellheads. Respondents shall include information listed below:

1. Well Name and API Identification Number
2. Well location
3. Current well status for each well.
  - a. Active, Shut-in, Temporarily Abandoned, Plugged
4. Well Construction Information
  - a. Date Well Drilled
  - b. Date Well Completed
  - c. Total Depth
  - d. Plug Back Depth
  - e. Drilling Record
  - f. Completion Record (include diagram)
  - g. Cementing Record (including estimated cement tops with assumptions for calculations and cement bond logs)
5. Well Rework Information
  - a. Date of Well Rework
  - b. Reason for Rework (If due to casing leak, location of leak if known)
  - c. Records of Well Logs and Tests Performed
  - d. Record of Rework
  - e. Date Well Recommended Injection or Production
6. Temporarily Abandoned (TA) or Shut-in Wells Information
  - a. Date(s) Well Shut-in or TA
  - b. Reason for TA or Shut-in of Well
  - c. Was Well Shut-in or TA'd With the Equipment in the Well?
  - d. If Not, What Equipment Was Removed and When, Provide a Record of Work if Possible
  - e. Is the Well Capable of Resuming Injection or Production Without a Rework?
7. Well Conversion Information
  - a. Date(s) Well Converted from Production to Injection:
  - b. Date(s) Well Converted from Injection to Production
  - c. Record of Conversion Activity
8. Plugging and Abandonment Information
  - a. Plug and Abandonment Plan
  - b. Plugging Record
  - c. Were Any Problems Experienced During the Plugging Process, Involving Such Things as Pulling of Equipment, Setting Plugs, Water Flow to Surface?

C. PREPARE AND SUBMIT TANK AND PIPELINE INFORMATION

Respondents shall provide information on all current and past tanks, associated tank battery equipment, oil/water separators, and pipelines used in the East Poplar Oil Field for the production of oil and gas in the township, range, and sections listed Paragraph VI(1)(B) above, including but not limited to: Tank Batteries 8-D, 80-D, South Central, A, C, D, F, G, H, K, and R. As information becomes available to Respondents, each Respondent shall submit the information to the EPA. At the latest, all information required from all Respondents shall be submitted by March 31, 2000. Respondents shall provide the information listed below:

1. Location of tank
2. Tank size and construction
3. Duration of tank use
4. Information on leaking tank bottoms or any other type of tank integrity failure(s)
5. Information on spill incidents at or near the tanks and tank batteries, including those from unloading transport trucks into the tanks.
6. Location of all pipelines (identify as surface or subsurface)
7. Information on any leaks or spills from pipelines leading to and from the tanks and wells
8. Information on pipeline failures on the surface and subsurface.

D. PROVIDE INFORMATION ON PIT(S) USED IN THE PRODUCTION OF OIL OR GAS

Respondents shall provide information on all current and abandoned pits used for well construction, oil and gas production, well workovers, product and waste

storage, evaporation and disposal of fluid products and wastes in the sections listed for in the East Poplar Oil Field for the production of oil and gas in the township, range, and sections listed in Paragraph VI(1)(B) above. As information becomes available to Respondents, each Respondent shall submit the information to the EPA. At the latest, all information required from all Respondents shall be submitted by March 31, 2000.

Respondents shall include information on the construction for each pit, date pit constructed, duration of pit use, for what the pit was used, types of wastes placed in the pit, and, if abandoned, record of abandonment.

E. PROVIDE GEOLOGIC AND HYDROLOGIC FIELD INFORMATION

Respondents shall provide a formation depth cross section for the portion of the field drilled, constructed, operated, and/or plugged well(s) by each Respondent. Respondents shall provide information on all formations found to contain water above the injection or production formation being used by their wells. Respondents shall provide information on formation pressures for production and/or injection formations, over a time line from well construction to well plugging. As information becomes available to Respondents, each Respondent shall submit the

information to the EPA. At the latest, all information required from all Respondents shall be submitted by March 31, 2000.

2. Unless otherwise specified, all reports and notifications herein required shall be submitted to:

Nathan Wiser  
U.S. Environmental Protection Agency  
Office of Enforcement, Compliance  
and Environmental Justice  
Technical Enforcement Program (8ENF-T)  
999 18th Street, Suite 500  
Denver, Colorado 80202-2456  
Telephone (303) 312-5211

#### VII. GENERAL PROVISIONS

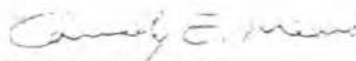
1. The provisions of this order shall apply to and be binding upon Respondents, their officers, directors, agents, successors and assigns. Notice of this Order shall be given to any successors in interest prior to transfer of any of the oil and gas facilities or their operation. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through or for Respondents, shall not excuse any failure of Respondents to fully perform their obligations under this Order.
2. This Order does not constitute a waiver, suspension, or modification of the requirements of any federal statute, regulation, or condition of any permit issued thereunder, including the requirements of the Safe

Drinking Water Act, which remain in full force and effect. Issuance of this Order is not a waiver by EPA to forgo any additional administrative, civil, or criminal action(s) otherwise authorized under the Act.

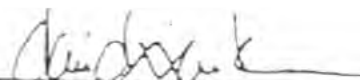
3. Violation of any term of this Order may subject Respondents to an administrative civil penalty of up to \$15,000 for each day in which such violation occurs or failure to comply continues pursuant to §1431(b) of the Act, 42 U.S.C. §300i(b). In addition, actions or omissions which violate any requirements of the SDWA or its implementing regulations may subject Respondents to a civil penalty of not more than \$27,500 per day per violation pursuant to §1423 of the Act, 42 U.S.C. §300h-2.
4. This Emergency Administrative Order is a final agency action by EPA.
5. This Emergency Administrative Order is binding on all Respondents, and each Respondent is jointly and severally liable hereunder.

6. The effective date of this Order shall be the date of issuance.

Issued this 5<sup>th</sup> day of NOVEMBER, 1999.



Connally E. Mears, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance,  
and Environmental Justice  
United States Environmental Protection  
Agency, Region 8



Michael T. Wisner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance,  
and Environmental Justice  
United States Environmental Protection  
Agency, Region 8